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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

11 THE PEOPLE OF THE STATE OF	)	Case No.
12 CALIFORNIA, BY AND THROUGH THE	)	
13 CALIFORNIA CORPORATIONS	)	PETITION FOR LIMITED RECEIVER
14 COMMISSIONER,	)	
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Petitioner, the People of the State of California, by and through the California Corporations Commissioner ("Commissioner" or "Petitioner"), administers the provisions of the California Escrow Law (Financial Code § 17000 et seq.), and the regulations issued pursuant thereto (Title 10, California Code of Regulations, Chapter 3, Subchapter 9, Sections 1700 et seq.), which regulate the business and activities of independent escrow agents.

The Petitioner having issued an Order Taking Possession of the Trust Funds and Escrow Records of Apple Escrow pursuant to Financial Code section 17621, respectfully states:

1. On or about April 24, 1985, Petitioner issued an escrow agent's license pursuant to the California Escrow Law to Apple Escrow ("Apple"), a California corporation. Pursuant to that

1 license, Petitioner authorized Apple to engage in business as an escrow agent within the State of  
2 California. The license is currently valid and unrevoked. Apple's principal place of business was  
3 located at 13585 E. Whittier Boulevard, Suite 103, Whittier, Los Angeles, California 90605.

4 2. William Campion ("Campion") is, and at all times relevant herein was, the president  
5 of Apple.

6 3. At all times relevant herein, Mary Ann Palmer ("Palmer") was the manager, and  
7 Veronia Amaya ("Amaya") was the escrow officer of Apple.

8 4. On or about March 11, 2010, a special examination of the books and records of Apple  
9 was commenced by the Commissioner, by and through his staff, after the Department of  
10 Corporations ("Department") received information on or about March 10, 2010 that a check written  
11 against the Apple trust account had been returned non-sufficient funds. The special examination  
12 revealed that commencing in or about April 2008, and continuing through at least March 9, 2010,  
13 Apple, by and through Palmer and Amaya, made unauthorized disbursements of trust funds to Apple  
14 to pay the operating expenses of Apple and to repay personal loans of Palmer totaling \$63,808.49 in  
15 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
16 sections 1738 and 1738.2.

17 5. The special examination further revealed that the unauthorized disbursements  
18 described in paragraph 4 had caused a shortage of at least \$67,321.11 to exist in the trust account of  
19 Apple in violation of California Code of Regulations, title 10, section 1738.1.

20 6. Petitioner has demanded that Apple cure the trust account shortage described in  
21 paragraph 5 above, however, Apple has failed to cure the shortage and continues in its failure to cure  
22 such shortage.

23 7. On or about April 20, 2010, the Commissioner learned that Comerica Bank had  
24 determined to sever its relationship with Apple and on or about April 16, 2010 issued cashier's  
25 check number 200003744 in the amount of \$248,369.12 to Apple, which represented all Apple trust  
26 funds, and had the cashier's check delivered to Apple, by and through Palmer, on or about April 16,  
27 2010 via messenger. The cashier's check had not been presented to Comerica Bank for payment as  
28 of April 20, 2010, at or about 11:00 a.m.

1           8.       Petitioner determined that the manner in which Apple was conducting business was  
2 unsafe and injurious, and on April 20, 2010, issued an Order to Discontinue Escrow Activities  
3 Pursuant to Financial Code Section 17415 to Apple along with a Demand For and Order Taking  
4 Possession of the Property and Business pursuant to Financial Code Section 17621 and an Order  
5 Appointing Conservator pursuant to Financial Code Section 17630. These orders were necessary for  
6 the public protection of the escrow customers of Apple.

7           9.       Pursuant to the Order Appointing Conservator, Peter A. Davidson of the Law Firm of  
8 Ervin Cohen & Jessup LLP ("Conservator") took possession of the property, business and assets of  
9 Apple on April 20, 2010.

10          10.      Pursuant to Financial Code section 17622, Apple had ten (10) days after the taking to  
11 apply to the superior court for an order to enjoin further proceedings by Petitioner. The ten days  
12 provided by Financial Code section 17622 has expired, and there has been no action commenced by  
13 Apple to contest the actions of Petitioner described in paragraph 8 above.

14          11.      Immediately upon appointment, the Conservator commenced an extensive review of  
15 the books and records of Apple. The review was further complicated when numerous escrow parties  
16 contacted the Conservator regarding recent funds they had deposited with Apple, which had not been  
17 posted to the ledgers by Apple and had been deposited directly into the general account and used for  
18 operating expenses. The Conservator's review of the books and records to date discloses that there  
19 is a shortage in the trust account of at least \$120,338.59, but possibly as much as \$341,338.59, as  
20 further persons have recently come forward complaining of a misappropriated escrow deposit, which  
21 involved a missing escrow file.

22          12.      After appointment, the Conservator was able to recover \$44,545.94 from a certificate  
23 of deposit that had been posted by Apple in lieu of a surety bond. As of September 30, 2010, the  
24 expenses incurred in the Conservatorship exceeded the recovered CD funds by more than  
25 \$17,000.00.

26          13.      While the Conservator has filed a Proof of Loss Claim with Escrow Agent's Fidelity  
27 Corporation, the fidelity insurer for the independent escrow industry, there remains much additional  
28 work that needs to be accomplished before this matter can be concluded, including dealing with and

1 possibly negotiating with Escrow Agent's Fidelity Corporation concerning the Proof of Loss,  
2 settling or possibly litigating the Proof of Loss, reviewing escrow files to determine to whom the  
3 funds are owed, disbursing any recovered funds, and making arrangements for the maintenance of  
4 the escrow files for the required statutory period.

5 14. On review of Apple's books and records and assets, the Commissioner has concluded  
6 that it would be futile to proceed further under a conservatorship as insufficient assets exist from  
7 which to pursue the avenues necessary to bring this matter to a conclusion, and thereby make the  
8 trust fund claimants as whole as possible.

9 15. Petitioner believes that a receivership is the only feasible manner in which to pursue  
10 the avenues necessary to bring this matter to a conclusion given that insufficient Apple assets exist  
11 from which to otherwise pursue the necessary avenues.

12 16. Pursuant to Financial Code section 17636, the Petitioner is authorized to petition the  
13 superior court for the appointment of a receiver to wind up the affairs of a licensee after having taken  
14 possession of the licensee.

15 17. On October 19, 2010, in furtherance of limiting the expenses to be incurred in this  
16 matter, Petitioner amended the conservatorship order to return possession of Apple to Campion  
17 and/or Palmer except for the escrow agent's license, the remaining trust funds, and the banking and  
18 escrow records.

19 18. The Petitioner submits that the appointment of a limited receiver by this Court over  
20 Apple is necessary to properly wind up the trust account affairs of Apple and to provide the greatest  
21 protection possible to the customers of Apple. The Petitioner submits that a situation exists wherein  
22 irreparable harm will be suffered by the public unless and until a receiver is appointed to wind up the  
23 trust account affairs of Apple.

24 Wherefore, the Petitioner prays:

25 A. This Court issue an order naming Peter A. Davidson as the receiver over the escrow  
26 trust funds of Apple, including, but not limited to, the trust funds currently in the possession of Peter  
27 A. Davidson in his capacity as Conservator and any indemnity funds that may be paid by Escrow  
28 Agents' Fidelity Corporation, and all bank and escrow records of Apple (the "trust property"),

1 whether directly or indirectly, owned beneficially or otherwise by, or in the possession, custody or  
2 control of Apple, Campion, Palmer, or Amaya, or to which Apple has any right of possession,  
3 custody or control, irrespective of whomsoever holds such property, in order to obtain an adequate  
4 accounting of Apple's trust property and trust liabilities; secure a marshaling of such property; and  
5 to forthwith begin winding up and liquidating the trust property affairs of Apple in accord with the  
6 provisions of the California Escrow Law, and for said order appointing such receiver to further  
7 provide that:

8 (1) The receiver prior to entry upon the duties described herein, take an oath to faithfully  
9 perform the duties of a receiver and to observe all of the instructions of this Court;

10 (2) The receiver is authorized, empowered and directed:

11 (a) to review, observe, discover and make notes regarding all the trust property of, or in  
12 the possession of Apple, wherever situated, including all trust accounts of Apple in financial  
13 depository institutions, and of any other trust property in which Apple has an interest regardless by  
14 whom it may be held on an ongoing basis pursuant to this Court's order;

15 (b) To undertake an independent review into the financial condition of the trust property  
16 and escrow transactions of Apple and render a report within 90 days reflecting the existence and  
17 value of all trust property subject to the review, observation and/or discovery by the receiver and of  
18 the extent of the trust liabilities, both those claimed by others to exist and those which the receiver  
19 believes to be the legal trust obligations of Apple, and any further information the receiver believes  
20 may assist in an equitable disposition of this matter, and to include in its report the receiver's opinion  
21 regarding the ability of Apple to meet its trust obligations, and his recommendation regarding the  
22 best method of distributing the trust property to the owners thereof;

23 (c) To file within 30 days of his qualification and appointment hereunder, a preliminary  
24 inventory of all trust property of which he shall then have reviewed, observed and/or discovered  
25 pursuant to this Court's order. Additionally, the receiver is to file one or more supplemental  
26 inventories when and if he shall subsequently come into knowledge of additional items appropriate  
27 to said inventory;

28 (d) To retain and employ such attorney(s) to assist, advise and represent the receiver in

the performance of his duties and responsibilities as the Court may approve upon written application of the receiver;

(e) To retain and employ LoBuglio & Sigman, CPA's, his accountants, and such other persons, clerical and professional, to perform such tasks as may be necessary to aid the receiver in the performance of his duties and responsibilities;

(f) To be the sole signator on all trust bank accounts of Apple;

(g) To bring such proceedings as are necessary to enforce the provisions hereof;

(h) To bring such actions as are necessary to modify the provisions hereof;

(i) To make such payments and disbursements from the trust property so taken into custody, control, and possession of the receiver or otherwise received by him, as may be necessary and advisable in discharging his duties as receiver;

(j) To preserve trust property;

(k) To institute, prosecute, defend, compromise, intervene and become a party either in his own name or in the name of Apple to such suits, actions, or proceedings as may be necessary for the protection, maintenance, recoupment or preservation of the trust property of Apple and its escrow parties, with prior court approval; and

(l) To divert, take possession of and secure all mail of Apple, in order to screen such mail for mail relating to the trust property, returning non-trust property mail to Campion and/or Palmer, and to effect a change in the rights to use any and all post office boxes and other mail collection facilities used by Apple.

B. The receiver is hereby vested with, and is authorized, directed, and empowered to exercise, all of the powers of Apple's officers and directors or persons who exercise similar powers and perform similar duties, with respect to the trust property, whose authority is hereby suspended; and Apple's officers, agents, employees, representatives, directors, successors in interest, attorneys in fact and all persons acting in the concert or participating with them, are hereby divested of, restrained and barred from exercising any of the powers herein vested in this receiver.

C. Any local, state or federal law enforcement and regulatory agency having jurisdiction over matters relating to Apple's business shall be entitled to review, without exception, all reports of

1 the receiver and all books, records, and files on Apple in the possession of the receiver at any time  
2 during normal business hours, and to make any abstract or copies of said documents as it desires.

3 D. Apple and its respective officers, directors, agents, servants, employees, successors,  
4 assigns, affiliates, and other persons or entities under their control and all persons or entities in active  
5 concert or participation with them, and each of them, shall turn over to the receiver all records,  
6 documentation, charts and/or descriptive material, which relate, directly or indirectly, to the trust  
7 property of Apple or otherwise belonging to its escrow parties, now held by Apple or any of them.

8 E. This Court will retain jurisdiction of this action in order to implement and carry out  
9 the terms of all orders and decrees that may be entered herein or to entertain any suitable application  
10 or motion by Petitioner and/or receiver for additional relief or modification of any order made herein  
11 within the jurisdiction of this Court.

12 F. During the pendency of this receivership, except by leave of court, all parties to  
13 escrows held by Apple and any other persons seeking relief of any kind, in law or in equity, from  
14 Apple relating to the trust property, and all others acting on behalf of any such escrow parties or  
15 other persons including sheriffs, marshals, servants, agents and employees are restrained from:

16 (1) commencing, prosecuting, continuing or enforcing any suit or proceeding;  
17 (2) executing or issuing or causing the execution or issuance of any court attachment,  
18 subpoena, replevin, execution or other process for the purpose of impounding or taking possession of  
19 or interfering with or creating or enforcing a lien upon any property owned or in the possession of  
20 Apple or its affiliates, or the receiver appointed herein, where ever situated;

21 (3) taking, retaining, retaking or attempting to retake possession of any trust property;

22 (4) withholding or diverting any trust property obligation;

23 (5) doing any act or other thing whatsoever to interfere with the possession of or  
24 management by the receiver herein and of the trust property, controlled by or in the possession of  
25 Apple or to in any way interfere with said receiver or to interfere in any manner during the pendency  
26 of this proceeding with the exclusive jurisdiction of this Court over the Apple trust property.

27 G. At such time as the financial condition of the trust property has been ascertained by  
28 the receiver, and at such time as the trust property has been marshaled and all trust liabilities have

1 been determined, the receiver shall file an application with the Court for disposition of such trust  
2 property. The application shall propose in detail the winding up and the distribution of trust funds.  
3 If necessary, the receiver shall be authorized to propose and carry out a partial distribution, retaining  
4 such funds pending final distribution as are necessary to finance any pertinent litigation or the  
5 remaining operation of the receivership.

6 H. The receiver shall be paid an hourly rate of \$460.00 for his services and shall be  
7 entitled to reimbursement for usual and customary expenses, including out of pocket expenditures on  
8 behalf of the receivership estate, which shall be paid from the certificate of Deposit in lieu of surety  
9 bond of Apple, if any such funds remain, and then, if insufficient, from the trust funds, and that the  
10 State of California shall have no liability whatsoever for any costs, fees and/or out pocket expenses  
11 that may result from such receivership. The receiver and any professional hired by him shall make  
12 application to this Court on a monthly basis for payment of reasonable fees and expenses incurred by  
13 the receiver or such professional, and shall be entitled to payment of said fees and expenses on  
14 account as hereinafter provided. Copies of such applications to the Court shall be promptly served  
15 on all attorneys of record for parties in this action, who shall have ten (10) calendar days following  
16 the filing and service of such application to file any objections thereto with the Court, and serve any  
17 such objections by facsimile and mail on the receiver. If no objections are filed with the Court and  
18 served within the ten (10) calendar day period, the receiver shall thereupon draw funds from the  
19 receivership estate sufficient to pay one-hundred percent (100%) of out-of-pocket expenses and  
20 seventy-five percent (75%) of such fees, including all professional fees, and other expenses such as  
21 in office copying and facsimile charges, without further order of the Court. If any objections are  
22 filed, the receiver may draw funds from the receivership estate sufficient to pay any amounts as to  
23 which there are no objections, and the Court will conduct a hearing on any objections upon motion  
24 of the receiver or the objecting party. At such hearing, the compensation of the receiver or other  
25 professional making application, as well as allowable disbursements and expenses, will be  
26 determined by the Court, and the receiver will be directed to draw funds from the receivership estate  
27 to pay one-hundred percent (100%) and seventy-five percent (75%), respectively, of the amounts so  
28 determined by the Court. Notwithstanding such interim monthly payments of fees and expenses, all



1 fees and expenses shall be submitted to the Court for its approval by a properly noticed request for  
2 fees, stipulation of all parties or the receiver's Final Account and Report. Upon approval of the fees  
3 and expenses of the receiver or other professional, any hold back amounts still due and owing to the  
4 receiver or other professional shall be paid from the receivership estate.

5 I. The disbursement of Apple's trust funds is prohibited until a reconciliation of Apple's  
6 trust account(s) has been completed and Petitioner has approved the reconciliation of which said  
7 approval shall not be unreasonably withheld, except to pay the costs and expenses of the receivership  
8 as provided for in paragraph H above.

9 J. For an order that the receiver shall not be required to file a bond with the Court in this  
10 matter.

11 Dated: October 20, 2010  
12 Los Angeles, California

PRESTON DuFAUCHARD  
California Corporations Commissioner

13 By \_\_\_\_\_  
14 Judy L. Hartley  
15 Attorney for Petitioner  
16 California Corporations Commissioner  
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